

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

<b>DAVID WAYNE KELLEY,</b>	)	<b>CASE NO. 7:17CV00278</b>
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b><u>FINAL ORDER</u></b>
	)	
<b>HAROLD W. CLARKE,</b>	)	<b>By: Norman K. Moon</b>
<b>Respondent.</b>	)	<b>Senior United States District Judge</b>

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** as follows:

- (1) The Respondent's motion to dismiss (ECF No. 8) is **GRANTED**;
- (2) This action is **STRICKEN** from the active docket of this court; and
- (3) Concluding that Kelley has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is **DENIED**.

The Clerk is directed to send copies of this Order and the accompanying Memorandum Opinion to the parties.

**ENTER:** This 8th day of December, 2017.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE